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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
10/533,459	05/02/2005	Curtis C. Harris	63139(47992)	3076	
46037 EDWARDS A	7590 12/14/200 NGELL PALMER & E	EXAM	EXAMINER		
PO BOX 5587	4	QIAN, C	QIAN, CELINE X		
BOSTON, MA	02205	ART UNIT	PAPER NUMBER		
		1636			
			MAIL DATE	DELIVERY MODE	
			12/14/2009	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

## Advisory Action Before the Filing of an Appeal Brief

Ī	Application No.	Applicant(s)	
	10/533,459	HARRIS ET AL.	
	Examiner	Art Unit	
	CELINE X. QIAN	1636	

under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the finial Office action; or (2) as set for thin (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filled, may reduce any seamed patient term adjustment. See 37 CFR 1.704(b).    The Notice of Appeal was filed on A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).    MENDMENTS   AMENDMENTS   A		CELINE X. QIAN	1636					
1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandomment of this application, applicant must timely file one of the following replies: (1) an amendment, affidate, or other evidency, evich places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 1.131: or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:  a) ☐ The period for reply expires 2_months from the mailing date of the final rejection.  b) ☐ The period for reply expires 2_months from the mailing date of the final rejection.  Examiner Note: I flox 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FIRAL REJECTION. See MPEP 706.3701.  Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action, or (2) as remy measure and the status adjustment. See 37 CFR 1.174(b).  NOTICE OF APPEAL.  2. ☐ The Notice of Appeal as Self on A brief in compliance with 37 CFR 4.137(m), to avoid dismissal of the appeal. Since a Notice of Appeal (a) and prepared the self-original prepared in the filed within the time period set forth in 37 CFR 4.137(a).  AMENOMENTS  3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will go be entered because (a) ☐ They raise the issue of new matter (see NOTE below);  (b) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  (c) ☐ They are not deemend to place the applicati	The MAILING DATE of this communication appe	ars on the cover sheet with the	correspondence add	ress				
1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandomment of this application, applicant must timely file one of the following replies: (1) an amendment, affidate, or other evidency, evich places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 1.131: or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:  a) ☐ The period for reply expires 2_months from the mailing date of the final rejection.  b) ☐ The period for reply expires 2_months from the mailing date of the final rejection.  Examiner Note: I flox 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FIRAL REJECTION. See MPEP 706.3701.  Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action, or (2) as remy measure and the status adjustment. See 37 CFR 1.174(b).  NOTICE OF APPEAL.  2. ☐ The Notice of Appeal as Self on A brief in compliance with 37 CFR 4.137(m), to avoid dismissal of the appeal. Since a Notice of Appeal (a) and prepared the self-original prepared in the filed within the time period set forth in 37 CFR 4.137(a).  AMENOMENTS  3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will go be entered because (a) ☐ They raise the issue of new matter (see NOTE below);  (b) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  (c) ☐ They are not deemend to place the applicati	THE REPLY FILED 25 November 2009 FAILS TO PLACE THIS	APPLICATION IN CONDITION F	OR ALLOWANCE.					
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will be a statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. Examiner Note: If box 1 is checked, check either box (a) or (b). ONITHS from the mailing date of the final rejection. Examiner Note: If box 1 is checked, check either box (a) or (b). ONITHS from the mailing date of the final rejection. Examiner Note: If box 1.35(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set fort in (b) above, if checket, A ry reply received by the Office later than three months after the mailing date of the final rejection, even if timely flied, may reduce any earmed patient term adjustment. See 37 CFR 1.1704(b).  Control of PAPEAI.  ☐ The Notice of Appeal was filled on A brief in compliance with 37 CFR 41.37(e), to avoid dismissal of the date of filling the Notice of Appeal ans been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).  AMENDMENTS  ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  (b) ☐ They raise the issue of new matter (see NOTE below);  (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal, and/or  (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.  NOTE: See Continuation Sheet (See 37 CFR 1.116 and 41.33(a)).  (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.  NOTE: See Continuati	<ol> <li>The reply was filed after a final rejection, but prior to or on application, applicant must timely file one of the following application in condition for allowance; (2) a Notice of Appe for Continued Examination (RCE) in compliance with 37 C</li> </ol>	the same day as filing a Notice of replies: (1) an amendment, affidavi eal (with appeal fee) in compliance	Appeal. To avoid abar t, or other evidence, w with 37 CFR 41.31; or	hich places the (3) a Request				
Examiner Note: If box 1 is checked, check either box (a) or (b) ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINIA REJECTION. See MPEP 708.07 (f).  Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extensions have been filled is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office acidon; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filled, may reduce any earned patient term adjustment. See 37 CFR 1.704(b).  MOTICE OF AFPEAL.  In Price Notice of Appeal was filled on A brief in compliance with 37 CFR 41.37(a), to avoid dismissal of the date of filling the Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).  MENDMENTS  In proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because (a) They raise new issues that would require further consideration and/or search (see NOTE below);  (b) They raise the issue of new matter (see NOTE below);  (c) They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  (d) They present additional claims without canceling a corresponding number of finally rejected claims.  NOTE: See Continuation Sheet (See 37 CFR 1.116 and 41.33(a)).  The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  Applicants reply has overcome the following rejection(s):	b) The period for reply expires on: (1) the mailing date of this A	dvisory Action, or (2) the date set forth						
Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office doctor; or (2) as set forth in (a) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filled, may reduce any earned patient term adjustment. See 37 CFR 1.704(b).  NOTICE OF APPEAL.    The Notice of Appeal was filed on A brief in compliance with 37 CFR 41.37(e)), to avoid dismissal of the date of filling the Notice of Appeal and set any reply must be filed within the time period set forth in 37 CFR 41.37(a).    AMENDMENTS	Examiner Note: If box 1 is checked, check either box (a) or (	b). ONLY CHECK BOX (b) WHEN THE						
have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee user 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortneed statutory period for reply originally set in the Office active; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may recuize any sement patent term adjustment. See 37 CFR 1.74(b) (NOTICE OF APPEAL).  **OFTICE OF APPEAL**  **OFTICE OF APPEA			36(a) and the appropriat	e extension fee				
MOTICE OF APPEAL  2. ☐ The Notice of Appeal was filed on A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(a)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).  AMENDMENTS  3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  (b) ☐ They raise the issue of new matter (see NOTE below);  (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.  NOTE: See Continuation Sheet (See 37 CFR 1.116 and 41.33(a)).  4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  5. ☐ Applicant's reply has overcome the following rejection(s):	have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as							
<ul> <li>2. ☐ The Notice of Appeal was filed on A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(a)), a void dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).</li> <li>AMENDMENTS</li> <li>3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);</li> <li>(b) ☐ They raise the issue of new matter (see NOTE below);</li> <li>(c) ☐ They raise the issue of new matter (see NOTE below);</li> <li>(d) ☐ They raise the definition of the present additional claims without canceling a corresponding number of finally rejected claims.</li> <li>NOTE: See Continuation Sheet (See 37 CFR 1.116 and 41.33(a)).</li> <li>↑ ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).</li> <li>↑ ☐ Applicant's reply has overcome the following rejection(s):</li></ul>			ie or trie imarrejection, e	ven ii umeiy iiled,				
Filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(a)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).    MALENDMENTS								
3. ■ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  (a) ■ They raise new issues that would require further consideration and/or search (see NOTE below);  (b) ■ They raise the issue of new matter (see NOTE below);  (c) ■ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  (d) ■ They present additional claims without canceling a corresponding number of finally rejected claims.  NOTE: See Continuation Sheet.  (See 37 CFR 1.116 and 41.33(a)).  4. ■ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  5. ■ Applicant's reply has overcome the following rejection(s): ■	filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a							
(a) ∑ They raise new issues that would require further consideration and/or search (see NOTE below); (b) ☐ They raise the issue of new matter (see NOTE below); (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.  NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)). 4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324). 5. ☐ Applicant's reply has overcome the following rejection(s): ☐ 6. ☐ Newly proposed or amended claim(s)								
(o)	(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);							
(d) They present additional claims without canceling a corresponding number of finally rejected claims.  NOTE: See Continuation Sheet: (See 37 CFR 1.116 and 41.33(a)).  1. The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  5. Applicant's reply has overcome the following rejection(s):	(c) 🔀 They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for							
4. The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324). 5. Applicant's reply has overcome the following rejection(s):	(d) They present additional claims without canceling a corresponding number of finally rejected claims.							
5.								
6.			mpliant Amendment (	PTOL-324).				
7. ☑ For purposes of appeal, the proposed amendment(s): a) ☑ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  The status of the claim(s) is (or will be) as follows: Claim(s) allowed: Claim(s) objected to: Claim(s) rejected: 20-29.  AFFIDAVIT OR OTHER EVIDENCE  8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.11(e).  9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing in the entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.  REQUEST FOR RECONSIDERATIONOTHER  11. ☑ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  See Continuation Sheet.  12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s)	6. Newly proposed or amended claim(s) would be all		timely filed amendmer	nt canceling the				
Claim(s) allowed:	7. X For purposes of appeal, the proposed amendment(s): a) x will not be entered, or b) will be entered and an explanation of							
Claim(s) objected to: Claim(s) rejected: 20-29. Claim(s) withdrawn from consideration:  AFFIDA/TIO RO OTHER EVIDENCE  8.  The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  9.  The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  10.  The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.  REQUEST FOR RECONSIDERATION/OTHER  11.  The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  See Continuation Sheet.  12.  Other:  (Celtine X Qian /	The status of the claim(s) is (or will be) as follows:							
Claim(s) rejected: 20-29.  Claim(s) withdrawn from consideration:								
AFFIDAVIT OR OTHER EVIDENCE    AFFIDAVIT OR OTHER EVIDENCE								
8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.  REQUEST FOR RECONSIDERATION/OTHER  11. ☑ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  See Continuation Sheet.  12. ☐ Other:								
because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  9. The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons with it is necessary and was not learlier presented. See 37 CFR 430(11).  10. The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached. REQUEST FOR RECONSIDERATION/OTHER  11. Meter request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.  12. Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s)								
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails not provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.  REQUEST FOR RECONSIDERATION/OTHER  11. ☑ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  See Continuation Sheet.  12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s)  13. ☐ Other:	because applicant failed to provide a showing of good and							
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.  REQUEST FOR RECONSIDERATION/OTHER  11. ☑ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  See Continuation Sheet.  12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s)  13. ☐ Other:	The affidavit or other evidence filed after the date of filing entered because the affidavit or other evidence failed to o	vercome <u>all</u> rejections under appea	al and/or appellant fail:	s to provide a				
See Continuation Sheet. 12.  Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s) 13.  Other: //Celine X Qian /								
13.		does NOT place the application in	condition for allowan	ce because:				
		PTO/SB/08) Paper No(s).						
Primary Evaminer, Art Unit 1636								
Timaly Examiner, Art Offic 1000		Primary Examiner, Art U	Init 1636					

Continuation of 3. NOTE: The proposed amendment raises new issues that require further consideration and search because the amended daim 20 comprises new limitation of "CPE and GGH." This amendment thus not deem to place the application in better form for appeal by materially reducing or simplify the issues for appeal. Therefore, it will not be entered.

Continuation of 11. does NOT place the application in condition for allowance because: The argument is deemed moot because they are based on newly amended claims which will not be entered for reason discussed above.